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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,671	09/11/2003	Leonard Patrick Trinca	03-062-PT-YP	3721

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EXAMINER

GREEN, CHRISTY MARIE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/659,671

Applicant(s)

TRINCA, LEONARD PATRICK

Examiner

Christy M Green

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/7/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action for serial number 10/659671, entitled Storm Shutter System, filed on September 11, 2003.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the half and full screen track of claims 7 and 8 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 1, 2, 4, 7 and 8 are objected to because of the following informalities: within claim 1, it appears that the claim is more than one sentence and should be corrected; within claims 2, 7 and 8, the applicant has used the term "can be" which is somewhat indefinite, it is unclear if the limitations following the term are actually incorporated within the invention or not. Appropriate correction is required.

Claims 3-6 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Within the independent claim 1, the applicant claims "the device..", however in claims 3 and 6, the applicant claims "The bars.."; in claim 4, applicant claims "One of the bars.."; and, in claim 5, applicant claims "The other bar..". All of the claims that depend from claim 1, should maintain the same consistency of the parent claim, and should state, "The device according to claim 1...."

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-6, 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 3-6 recites the limitation "the screen track" in line 8, line 3, line 4 and line 3 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the interior of the device" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the length of the screen track" in line 2 and " the existing half screen track" in line 3. There is insufficient antecedent basis for this limitation in the claim. Since these limitations were not previously disclosed or presented within the claims, they all lack antecedent basis and clarification should be made. Until then, the examiner will interpret the claims accordingly.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Haas, US Patent # .6,269,597.

Haas discloses the claimed invention a device used to protect windows (4) from damage comprising a flat piece of material (13) with two identical length bars (6, 8) slots (at 23) and wing nuts (10, 12) with bolts (24), one of the bars would remain fixed (5, 6, 7) in the device and one (8) would move laterally from side to side (column 2, lines 60-63), a screen track (16), the wing nuts (12) have been attached to adjust the lateral

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movement of one of the bars (column 2, lines 60-63); the device can be constructed of wood (13) or any other materials with sufficient strength to withstand the force of an object striking it (column 2, lines 44-46); the bars are identical in length and placed on the interior (at 15) of the device, the bars are used to clamp the device (13) to the screen track (16) of any window (4); one of the bars (5, 6, 7) is stationary in position and is bolted in place (by 10), the stationary bar can be loosened to adjust the fit to the screen track by it is unable to move from side to side in a lateral direction (inherent if the wing nut "10" is loosened); the bars remain parallel to each other (5, 7 – figure 2) and the outside edges of the respective bars are placed inside the screen track (16) system of the window (4); and, the device can be used in a full screen track window (4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haas in view of Ralph, US Patent # 5,388,352.

Haas discloses the claimed invention as stated above in claim 1, including the other bar (8) is capable of movement from side to side (column 2, lines 60-63) and slots (23) are provided to get a tight fit of the device within the screen track (16).

Haas does not disclose washers. Ralph teaches that it is known in the art to provide washers (42) with a wing nut securing a panel. It would have been obvious to

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one having ordinary skill in the art at the time the invention was made to provide the washers as taught by Ralph with the device of Haas in order to help releasably lock the washer and bolt together to ensure a tight fit (column 2, lines 60-68).

Claims 7 and 9-11 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Haas.

Haas discloses the claimed invention as stated above in claim 1, including molding which would protect the top half of the window from damage (which could be added for more aesthetic appeal - column 2, lines 27-34).

Haas does not disclose the device can be used in a half screen track window and the bars extend the entire length of the screen track. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the device to be used with a half screen track window since it is already used with a full screen track window, it would just be a mere change in size according to the user. In regards to the bars extending the entire length of the screen track. It would have been an obvious matter of design choice to extend the bars the entire length of the screen track, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art and it appears that the length of the bars within the reference cited works equally well.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christy M Green whose telephone number is 703-308-9693. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 703-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cg

February 17, 2005


NAEKE SLACK

Primary Examiner